

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), and (e)
for
Wednesday, September 27, 2006
10:00 a.m.
Sacramento, California
&
West Covina, California

TO: Members of the California Occupational Safety and Health Appeals Board

FROM: J. Jeffrey Mojcher, Chief Counsel

DATE: September 15, 2006

RE: Closed Session of the Board on September 27, 2006

Pursuant to Government Code section 11126, subdivisions (a), (c)(3), and (e) and the Labor Code sections 6609 and 6620, the Appeals Board will hear the following items in Closed Session.

DECISIONS OF ADMINISTRATIVE LAW JUDGES:

(Written decision issued by an Administrative Law Judge. The decision summarizes the evidence received from the Division of Occupational Safety & Health and the Employer, makes findings of fact for all issues involved in the appeal and gives reasons and grounds for the decision. The Board Members review the decision and decide if they will reconsider the ALJ decision on their own motion.)

1. J. FLORES CONSTRUCTION CO., INC., 04-R1D1-1825
2. NORDSTROM DISTRIBUTION CENTER, 04-R1D4-2318

ORDERS OF ADMINISTRATIVE LAW JUDGES:

(Written order issued by an Administrative Law Judge after a pre-hearing conference in which the Division of Occupational Safety & Health and the Employer agree to settle an appeal without a hearing. The Board Members review the order and decide if they will reconsider or remand the issued order.)

1. AJC CONCRETE, INC., 06-R3D3-1073 AND 1074
2. ABERCROMBIE AND FITCH, 04-R3D5-3145

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For September 27, 2006
Page 2

3. ABILITY COUNTS INC., 05-R3D3-451 AND 452
4. AERA ENERGY LLC, 04-R4D3-1191
5. ALPHA ARCHITECTURAL PRODUCTS, 04-R3D1-198 AND 199
6. AMERICAN RAIN GUTTERS, 05-R2D3-3935
7. ARGONAUT CONSTRUCTORS, 04-R1D5-3248
8. AUTOMOTIVE COLLUSION CENTER, 04-R1D4-2638 THROUGH 2640
9. BEECHE SYSTEMS CORP., 02-R1D1-3081
10. BENCHMARK CONSTRUCTION, 04-R4D2-3365
11. BERT'S DINER, 06-R2D1-1761
12. BEUTLER CORPORATION, 04-R2D1-2061
13. BEUTLER CORPORATION, 05-R2D1-304
14. BOB FRENCH CONSTRUCTION INC., 05-R4D4-4460
15. BRANDI DENTAL LABORATORY, 05-R3D5-1951 AND 1952
16. BRISTOL INDUSTRIES, 04-R3D1-1662 THROUGH 1665
17. C G CUSTOM TILE AND MARBLE, 05-R4D1-4569 AND 4570
18. CALEX ENGINEERING CO., 04-R4D2-909
19. CALIFORNIA STATE DEPARTMENT/CORRECTIONS CIM, 06-R3D3-1440
AND 1441
20. CENTRAL VALLEY DRYWALL, INC., 06-R2D1-4522
21. JOSE S. CHINGCUANGCO, 04-R1D1-934 THROUGH 939
22. CLARK PACIFIC, 04-R3D5-1574
23. COLORSCAPE LANDSCAPE & CONSTRUCTION, 06-R3D1-1284 AND 1285
24. CONCORDE BATTERY CORP., 03-R4D4-1994
25. COVE BUILDERS, 04-R3D1-1666

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For September 27, 2006
Page 3

26. DAVIS BROS FRAMING INC., 04-R3D1-1309 THROUGH 1311
27. DUCTMATE INDUSTRIES INC., 06-R6D1-2391 THROUGH 2393
28. DYMOND FRAMING AND LUMBER, 04-R4D4-2436 AND 2437
29. ESCENTIAL RESOURCES, 06-R3D3-250 AND 251
30. EXPRESS ROLL OFF & CONSTRUCTION SERVICES, 03-R3D5-5184 AND 5185
31. FFI, INC., dba FITTINGS THAT FIT, 06-R6D2-1712 THROUGH 1715
32. FARMER'S COOPERATIVE GIN, INC., 05-R2D5-2514
33. FIRST CLASS CLEANERS, 05-R3D1-017 THROUGH 019
34. FRESH PIC HARVEST, INC., 06-R3D3-552
35. GERARD DANIEL WORLDWIDE, 05-R6D2-4492 AND 4506
36. GLENN O'KEEFE TREE SERVICE, 06-R4D1-1627
37. GRANITE CONSTRUCTION COMPANY, 04-R3D2-2900
38. HANDYMAN CONNECTION, 04-R2D1-3463
39. HANFORD READY MIX, INC., 05-R2D1-4362 AND 4363
40. HARBOR FREIGHT TOOLS, 04-R2D5-2729
41. HAREL GENERAL CONTRACTOR, 05-R3D5-149 AND 150
42. HILBERS, INC., 05-R2D3-442
43. INTERSOURCE PACIFIC, INC., 04-R4D4-1026
44. J.I.J. DESIGN INC., 05-R4D4-3040
45. J.R. ROBERTS CORPORATION, 04-R2D1-2166 AND 2167
46. KIEWIT PACIFIC COMPANY, 05-R3D5-2535 AND 2536
47. KINKOS, 03-R4D3-5086 AND 5087

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For September 27, 2006
Page 4

48. KYLE'S ROCK & READY MIX, INC., 04-R2D1-2170 AND 2171
49. L.C. GENERAL BUILDERS, INC., 04-R1D1-3078
50. LAKEVIEW BUILDERS, INC., 06-R4D1-1623 AND 1624
51. LONG BEACH ROOFING, 04-R4D2-204
52. LYNX IRON CORP., 05-R1D2-4350 AND 4351
53. M – 1 LLC, 04-R4D1-1182 THROUGH 1184
54. MS INTERNATIONAL INC., 04-R3D1-2899
55. MAINLAND PRODUCTS, INC., 04-R3D3-402 AND 403
56. MALLCRAFT INC., 04-R4D4-2805 AND 2806
57. MARCO CRANE, 04-R4D2-561
58. MARTIN BROS./MARCOWALL, INC., 06-R4D1-1213
59. MEZA BODY SHOP SUPPLIES, INC., 06-R4D1-1618
60. MONTCLAIR MEAT COMPANY, 06-R6D2-1375 THROUGH 1377
61. MOUNTAIN CASCADE, INC., 05-R1D4-290
62. NORCAL RESTORATION SERVICES, INC., 05-R2D1-4239
63. O'BRIEN EMPLOYMENT SERVICES, INC., 05-R2D1-4241
64. OLIVEHURST PUBLIC UTILITY DISTRICT, 06-R2D7-793
65. ORANGE COUNTY CRATING, 06-R6D2-756 THROUGH 762
66. OTT FARM, 04-R3D2-483 AND 484
67. PACIFIC WEST BUILDERS, 04-R3D3-2091 AND 2092
68. PARAMOUNT PICTURES, 06-R4D1-70 AND 71
69. PASO ROBLES CITY WASTEWATER TREATMENT FACILITY, 05-R3D7-1957 THROUGH 1958
70. PERSONNEL PLUS, INC., dba HAMILTON SERVICES, 04-R3D1-2357

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For September 27, 2006
Page 5

71. PRIME TIME PAINTING, 04-R3D1-020 AND 021
72. RGSLA INC., 05-R4D4-3041
73. RECYCLE AMERICA ALLIANCE, 04-R2D1-2653
74. SNK CONSTRUCTION, INC., 04-R1D4-2863 AND 2964
75. SAN FRANCISCO SHERIFF'S DEPARTMENT, CITY AND COUNTY OF, 05-R1D3-735
76. SAN-MAR CONSTRUCTION CO., INC., 05-R4D1-4343 AND 4344
77. SANDBERG FURNITURE, 04-R4D2-337
78. SAREC OF CALIFORNIA, 06-R6D2-1919 THROUGH 1922
79. SAREC OF CALIFORNIA, 06-R6D2-1923 THROUGH 1924
80. SELECT PERSONNEL SERVICES, 04-R3D5-989
81. SEPULVEDA BUILDERS, 06-R6D2-764 THROUGH 766
82. SHOWCARD SIGN COMPANY, 04-R3D1-2089 AND 2090
83. SONOMA ENGINEERING INC., 04-R1D5-1299 AND 1300
84. SOUTHERN CALIFORNIA EDISON, 04-R3D3-1447
85. SOUTHERN WINE & SPIRITS, 06-R4D4-1890 AND 1891
86. STAFFING SERVICES LLC., 03-R3D5-4932
87. SUPER CENTER CONCEPTS, INC., dba SUPERIOR SUPER WAREHOUSE, 05-R3D3-2824 THROUGH 2827
88. SYAR INDUSTRIES INC., 06-R5D1-987
89. SYNPEP, 05-R1D4-287 THROUGH 289
90. SYNPEP CORPORATION, 05-R1D4-3124 AND 3125
91. TB PENICK & SONS, INC., 06-R4D3-2065
92. T & H AUTOBODY PAINT & SALES, 04-R4D4-2807 AND 2808

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For September 27, 2006
Page 6

93. TWR ENTERPRISES INC., 04-R3D1-611 AND 612
94. TRAIL CHEMICAL CORPORATION, 04-R4D4-2958 THROUGH 2961
95. TUSTIN CAR WASH & DETAIL, INC., dba MISSION CAR WASH, 05-R4D3-2266
96. TUTOR SALIBA KOCH – TIDEWATER, 04-R1D5-674
97. UHLER INC., 04-R3D1-1126Z
98. VADNAIS CORPORATION, 05-R5D3-3216
99. VALEW WELDING & FABRICATION, 06-R3D3-1081
100. VAP INTERNATIONAL, 05-R2D3-4248 AND 4249
101. WALL BOARD TOOLS, 05-R3D5-2979
102. W. E. O'NEIL CONSTRUCTION, 06-R4D2-1360
103. WELLBROCK BUILDERS, 04-R3D1-325
104. WORK FORCE STAFFING, 04-R4D3-1896
105. YANCEY MASONRY INC., 05-R2D1-3853
106. GREG YERVANIAN dba KAY WEST CORPORATION, 06-R4D1-834
107. ZACHA CONSTRUCTION, INC., 05-R4D3-1044

ORDERS DISMISSING APPEALS:

(Written order issued by an Administrative Law Judge disposing of an Employer appeal.)

1. HARROW'S, 05-R3D5-807 AND 809

ORDERS DENYING LATE APPEALS:

(Written order issued by an Administrative Law Judge disposing of an Employer appeal.)

1. GORDON SAND CO., 0-R5D2-9162
2. J'S PIPELINE, 06-R3D1-9107 AND 9108

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For September 27, 2006
Page 7

3. KOOH'S JEAN INC., 06-R4D1-9109

4. STEEL SOLUTIONS, 06-R1D2-9106

PETITIONS FOR RECONSIDERATION:

(The Division of Occupational Safety & Health and the Employer each has the right to petition the Appeals Board to reconsider a decision or order of an Administrative Law Judge. The Appeals Board must decide to grant or deny each petition.)

1. JAMES HIGBY ENGINEERING, 02-R4D3-4562 THROUGH 4567

2. VINCENTE HIDALGO dba EXTREME COLORS, 06-R4D1-9055 AND 9056

DENIAL OF PETITION FOR RECONSIDERATION (DRAFT):

1. VINCENTE HIDALGO dba EXTREME COLORS, 06-R4D1-9055 AND 9056

DECISIONS AFTER RECONSIDERATION (DRAFTS):

(If the Appeals Board grants a petition for reconsideration it reviews the facts of the appeal and then issues a decision after reconsideration upholding, reversing or modifying the underlying ALJ decision.)

1. A & C LANDSCAPING, INC., aka A & C CONSTRUCTION, INC., 03-R4D4-4791

2. AC FRAMERS INC., 03-R2D3-3475

3. AIR PRODUCTS AND CHEMICALS, INC., 06-R3D7-151 THROUGH 154

4. BAY AREA SYSTEMS & SOLUTIONS, dba BASS ELECTRIC, 01-R1D3-106

5. BLUE DIAMOND MATERIALS, 02-R5D2-1268

6. BRYDENSOT METAL PRODUCTS, 03-R3D3-3554 AND 3555

7. CALDWELL-ROLAND ROOFING, INC., 03-R1D4-2905

8. CALIFORNIA FAMILY FITNESS, 03-R2D1-095 & 096

9. CITY OF COMMERCE, 03-R4D2-2628

10. CITY OF LOS ANGELES FIRE DEPARTMENT, 03-R2D5-3960

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For September 27, 2006
Page 8

11. COX COMMUNICATIONS, 03-R3D2-1942
12. DAVIS BROTHERS FRAMING, INC., 03-R3D1-0114
13. E. L. YEAGER CONSTRUCTION COMPANY, INC., 01-R5D3-3261
14. ETTER & SON CONSTRUCTION, INC., 03-R1D5-3130 & 3131
15. GLASS PAK, 03-R2D2-0750 AND 0751
16. HARRIS CONSTRUCTION COMPANY, INC., 03-R2D5-3914
17. HEARN CONSTRUCTION, INC., 02-R6D1-3533 THROUGH 3536
18. HENSEL PHELPS CONSTRUCTION, 01-R2D1-1618 & 1619
19. HUSSMAN CORPORATION, 03-R3D1-2939
20. ILH CONSTRUCTION, 02-R1D1-4171 & 4172
21. IMPERIAL HIGHWAY CHEVRON, 03-R4D2-2778 THROUGH 2780
22. J. F. SHEA CONSTRUCTION, INC., 02-R5D3-801
23. K. A. BINE CONSTRUCTION, 03-R1D5-2031
24. KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-0323
25. KIMES-MORRIS CONSTRUCTION, 02-R1D4-1204 THROUGH 1209 & 02-1273
26. KNOTT'S BERRY FARM, 01-R3D1-4331 & 4332
27. LONG BEACH CITY COLLEGE, 03-R3D5-2747
28. LOS ANGELES, CITY OF, FIRE DEPARTMENT, 03-R2D5-3960
29. LOWPENSKY MOULDING, 03-R1D1-3405
30. MCI WORLDCOM INC., 00-R1D1-440 THROUGH 442
31. McDONALDS #10660, 03-R1D3-4116 & 4117
32. NIBBLELINK MASONRY CONSTRUCTION, 02-R3D3-1399 THROUGH 1401
33. NORTH FORK SPRINGS CONSTRUCTION, 02-R4D1-199 THROUGH 202

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For September 27, 2006
Page 9

34. PMR RACE CARS, 03-R3D3-1824 & 1825
35. POUK & STEINLE, INC., 03-R4D2-1495 & 1496
36. RII PLASTERING INC., 02-R3D1-2679
37. SACRAMENTO MUNICIPAL UTILITY DISTRICT, 02-R2D1-1654 THROUGH 1656
38. SILVERCREST WESTERN HOMES, CORP., 03-R2D1-4305
39. STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986
40. SUN VALLEY SKYLIGHTS, INC., 03-R4D1-2613 & 2614
41. TRIO METAL, 03-R4D4-0316 & 0317
42. UNITED AIRLINES, 00-R1D5-2844
43. WAREHOUSE DEMO SERVICES, 03-R1D4-3427
44. WESTERN DOOR, 01-R3D1-2827
45. WEST VALLEY CONSTRUCTION COMPANY, INC., 01-R1D2-3017 & 3018

PENDING LITIGATION

(If the Division of Occupational Safety & Health or the Employer disagrees with a decision after reconsideration or a denial of a petition for reconsideration, either one or both parties may apply to the California Superior Court for a writ of mandate. The Appeals Board receives legal advice from its Legal Unit and provides policy direction regarding pending litigation.)

SUPERIOR COURT:

1. HFS INVESTMENTS, INC., 01CS00981 (96-3079)
2. TEICHERT AGGREGATES, 03CS00659 (01-1193)
3. HARBOR SAND & GRAVEL, INC., 03CS00974 (01-1016)
4. LUIS E AVILA (E & L AVILA LABOR), ECU01582 (00-4067)
5. MOUNTAIN CASCADE, 03CS01655 (01-3561)
6. RUDOLPH & SLETTEN, 04CS00540 (01-478)

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For September 27, 2006
Page 10

7. PACIFIC RESOURCE RECOVERY, 04CS00695 (00-1108)
8. BLF FRAMING, INC., 04CS01618 (02-1837/38)
9. DESILVA GATES CONSTRUCTION, 05CS00008 (01-2742)

APPELLATE COURT:

1. C. OVERAA & CO., CO51245 (04CS00570) 01-3560
2. THE HERRICK CORP., CO51506 (01CS00438) 97-1373

OTHER LEGAL MATTERS

(Any legal matter that comes about after the agenda is noticed 10 days in advance of the meeting announcement and that must be acted upon or legal matters pending before the Board requiring specific Board action but do not fall within the above categories.)

SUMMARIES AND RECOMMENDATION FOR FOUR 342 (a) CASES BY CHIEF COUNSEL

1. SILVERCREST WESTERN HOMES, CORP., 03-R2D1-4305
2. McDONALD'S, 03-R1D3-4116 AND 4117
3. KNOTTS' BERRY FARM, 01-R3D1-4331 AND 4332
4. LONG BEACH CITY COLLEGE, 03-R3D5-2747

PERSONNEL *(Issues regarding staff.)*

Any matter not completed at this Closed Session may be continued to subsequent meetings.